

## MINUTES

### HUNTINGTON BEACH PLANNING COMMISSION

SEPTEMBER 25, 2007

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:45 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

#### CALL PLANNING COMMISSION MEETING TO ORDER

**ROLL CALL:**                    *P*                    *P*                    *A*                    *P*                    *P*                    *A*                    *P*  
*Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley*  
*(Commissioner Livengood and Commissioner Dwyer arrived at 5:50 PM)*

#### AGENDA APPROVAL

A MOTION WAS MADE BY SHIER-BURNETT, SECONDED BY FARLEY, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF SEPTEMBER 25, 2007, BY THE FOLLOWING VOTE:

AYES:                    Shier-Burnett, Speaker, Scandura, Shaw, Farley  
NOES:                    None  
ABSENT:                Livengood, Dwyer  
ABSTAIN:                None

#### MOTION APPROVED

A.    PROJECT REVIEW (FUTURE AGENDA ITEMS) - NONE

B.    STUDY SESSION ITEMS

B-1.    OCTA Measure "M" Presentation – Mary Beth Broeren

Kelly Hart of the Orange County Transportation Authority (OCTA) gave a PowerPoint presentation on Measure "M" and its future financial and transportation ramifications for the City of Huntington Beach. Ellen Burton, also of the OCTA, was available for questions.

B-2.    Future Study Session Items – Chairman Scandura

Chair Scandura announced the planned cancellation of the October 9, 2007, Planning Commission meeting. Scandura mentioned "Green Buildings" and "Downtown Parking Master Plan" (dates undetermined as yet) for future review at Study Sessions. For the Senior Center, he mentioned a possible December 4<sup>th</sup> date for the first Planning Commission Public Hearing Meeting, with December 11<sup>th</sup> as a secondary choice and December 18<sup>th</sup> as an alternate.

Principal Planner Herb Fauland mentioned that he would check with staff on the tentative schedule, and report back to the chair. He also stated that the Senior Center would probably require two Study Sessions – one for the Environmental Impact report and one for the project, which are currently targeted for November 13<sup>th</sup> and November 27<sup>th</sup>.

**C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) – Herb Fauland**

Principal Planner Herb Fauland reviewed the agenda items for the Public Hearing portion of the meeting (Item #B-1, Medical Marijuana) and noted that two late communications had been received. Fauland announced that Police Chief Ken Small will be in attendance for Public Hearing Item # B-1.

**D. PLANNING COMMISSION COMMITTEE REPORTS**

Commissioner Dwyer stated that he attended the Beach/Edinger Corridor Meeting and that the majority of the citizenry in attendance (homeowners) seemed pleased with the project and its progress.

**E. PUBLIC COMMENTS – NONE**

**F. PLANNING COMMISSION COMMENTS**

Commissioner Dwyer – None.

Commissioner Farley said that he appreciated the inclusion of the Building Safety & Department Process Improvement Memo in the mail.

Outgoing Fire Division Chief Jacques Pelletier announced his pending retirement, talked about his post-retirement career and asked everyone to welcome incoming Chief Bill Reardon.

Chair Scandura announced his designees (as requested by the Mayor) for two new City Council sub-committees: for the downtown news rack project, Commissioner Livengood as primary and Commissioner Farley as an alternate, and for the Green Committee, Commissioners Dwyer and Shier-Burnett as primaries and Commissioner Farley as an alternate. He thanked the Commission for their excellent work on First Christian Church.

Commissioner Shaw – None.

Commissioner Shier-Burnett – None.

Commissioner Livengood – None.

Commissioner Speaker noted that Rainbow Disposal was now waiting until after 8:30 AM for trash pickup at First Christian Church.

**6:35 P.M. – RECESS FOR DINNER**

**7:00 P.M. – COUNCIL CHAMBERS**

**CALL PLANNING COMMISSION MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE** – Led by Commissioner Shier-Burnett.

**ROLL CALL:**       *P*       *P*       *P*       *P*       *P*       *P*       *P*  
***Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley***

**AGENDA APPROVAL**

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION AGENDA OF SEPTEMBER 25, 2007, BY THE FOLLOWING VOTE:**

**AYES:**       Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley  
**NOES:**       None  
**ABSENT:**   None  
**ABSTAIN:**   None

**MOTION APPROVED**

**A.   ORAL COMMUNICATIONS – NONE**

**B.   PUBLIC HEARING ITEMS:**

**B-1.   ZONING TEXT AMENDMENT NO. 07-003 (MEDICAL MARIJUANA DISPENSARIES - CONTINUED FROM SEPTEMBER 11, 2007 WITH PUBLIC HEARING CLOSED) Applicant: City of Huntington Beach Request: To amend Chapters 204 and 212 of the Huntington Beach Zoning and Subdivision Ordinance to delete all references to medical marijuana dispensaries. Location: Industrial Districts Citywide Project Planner: Ricky Ramos**

**STAFF RECOMMENDATION:** Motion to: "Approve Zoning Text Amendment No. 07-003 with findings and forward to the City Council for adoption."

The Commission made the following disclosures:

- Commissioner Speaker has spoken to staff.
- Commissioner Livengood – none.
- Commissioner Shaw has spoken to the mayor, staff, and the Director of Americans with Disabilities.
- Commissioner Dwyer has spoken to Cindy (last name unavailable) at the Orange County Register and other Commissioners.
- Commissioner Shier-Burnett recused herself and left the room.
- Commissioner Farley – none.
- Chairman Scandura – none.

Ricky Ramos, Associate Planner, gave a brief presentation and advised of two late communications on Item No. B-1.

Police Chief Ken Small stated that he was not at the hearing to discuss legal ramifications. He stated that while seriously ill patients do require medical marijuana, Proposition 215 is poorly written and has been abused. Clinics have been opened and misused and a recent undercover sting televised by Channel 2 disclosed that it's easy to obtain marijuana. He also stated that this was not the intent of Proposition 215.

Chief Small further described the adverse impacts of medical marijuana dispensing facilities on the community:

- The smell of marijuana smoke makes some people ill.
- Nearby businesses can lose customers due to their proximity to a medical marijuana facility and this may prevent these businesses from flourishing.
- There's likely to be loitering, vandalism, drug use and drug transactions in the immediate vicinity.
- Medical marijuana clinic customers may engage in verbal abuse and the sale of drugs to minors.
- Medical marijuana clinic ads now abound at local schools.
- Most of the medical marijuana clinic customers are young, with no medical problems.
- Despite heightened security, increased crime has become an issue at clinics.
- With "cash only" policies, the clinics may have thousands of dollars on hand along with pounds of marijuana, making them a target for robbery and vehicle theft.
- During a recent 911 cell phone call, a citizen reported three young adults smoking marijuana in the car next to the caller's – when questioned by police, all three adults carried a doctor's recommendation for marijuana.
- In Orange County, only three cities currently do not have a medical marijuana prohibition in progress.
- In Chief Small's personal and professional view, he has no objection to marijuana being prescribed to those truly in physical need. He recommends a cautious course and supports Item No. B-1, which will delete all references to medical marijuana dispensaries.

**THE PUBLIC HEARING WAS OPENED.**

**WITH NO ONE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.**

Commissioner Livengood expressed concerns regarding Finding #4 and asked that the last sentence be deleted.

Commissioner Shaw asked Chief Small if the ordinance can be crafted to deal with abuses and Small replied no, that the city probably can't fulfill the intent of Proposition 215. Shaw also questioned if the zoning code is permissive and Senior Deputy City Attorney Leonie Mulvihill stated that the code lists all permitted uses and those uses which are not listed as prohibited.

Principal Planner Herb Fauland stated that if ZTA #07-003 is denied, the proceedings on the ZTA are terminated unless appealed.

Mulvihill stated that the city of Anaheim has banned all dispensaries under a temporary injunction dated September 4<sup>th</sup>, 2007.

Dwyer noted that he would be opposed to the item if there were a different way of dispensing marijuana (like a pharmacy).

Shaw said that he would be opposed to the item, as he wants to craft the code to not only prevent abuses, but to ensure those with a valid medical need for marijuana are not denied.

Commissioner Speaker referred to the television program "60 Minutes" and their exposé on Proposition 215, stating that 215 is a poorly written/bad law and the City of Huntington Beach should not follow a bad example.

Commissioner Livengood said that while he does not want to prohibit medical marijuana use, he does want to table the item for now, until a new law can be initiated that addresses potential abuses.

Commissioner Farley stated that he would be in support of the item and added that the Commission was not there to change Proposition 215.

Chairman Scandura stated that he would support the item, but would not support illegal activities.

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE ZONING TEXT AMENDMENT NO. 07-003 WITH REVISED FINDINGS AND FORWARD TO THE CITY COUNCIL FOR ADOPTION, BY THE FOLLOWING VOTE:**

<b>AYES:</b>	<b>Scandura, Speaker, Livengood, Dwyer, Farley</b>
<b>NOES:</b>	<b>Shaw</b>
<b>ABSENT:</b>	<b>None</b>
<b>ABSTAIN:</b>	<b>Shier-Burnett</b>

**MOTION APPROVED**

Herb Fauland, Principal Planner, noted that this item will be forwarded automatically to the City Council for final action.

## **PLANNING COMMISSION APPROVED SUGGESTED FINDINGS**

### **SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to City Council Resolution No. 4501, Class 20 which states that minor amendments to zoning ordinances that do not change the development standards, intensity, or density of such districts are exempt from further environmental review.

### **SUGGESTED FINDINGS FOR APPROVAL - ZONING TEXT AMENDMENT NO. 07-003:**

1. Zoning Text Amendment No. 07-003 to delete all references to medical marijuana dispensaries from the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed zoning text amendment affects properties with a General Plan Land Use Map designation of Industrial. The proposal is consistent with the Industrial designation and the goals and objectives of the City's General Plan by deleting all references to medical marijuana dispensaries while continuing to allow typical industrial uses such as manufacturing and warehousing.
2. In the case of a general land use provision, Zoning Text Amendment No. 07-003 is compatible with the uses authorized in, and the standards prescribed for, the zoning district for which it is proposed because it involves only the deletion of all references to medical marijuana dispensaries from the HBZSO. The other land uses and development standards identified in the IG and IL zoning districts will remain unchanged.
3. A community need is demonstrated for the change proposed. Zoning Text Amendment No. 07-003 will delete all references to medical marijuana dispensaries from the HBZSO consistent with case law and federal law.
4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice.

Commissioner Shier-Burnett returned.

C. **CONSENT CALENDAR** - NONE

D. **NON-PUBLIC HEARING ITEMS** – NONE

E. **PLANNING ITEMS**

E-1. **CITY COUNCIL ACTIONS FROM PREVIOUS MEETING**

**Scott Hess, Director of Planning** - reported on the items from the previous City Council meeting.

E-2. **CITY COUNCIL ITEMS FOR NEXT MEETING**

**Scott Hess, Director of Planning** – reported on the items scheduled for the next City Council meeting.

E-3. **PLANNING COMMISSION ITEMS FOR NEXT MEETING**

**Herb Fauland, Principal Planner** – reported on the items scheduled for the next Planning Commission meeting

**F. PLANNING COMMISSION ITEMS**

**F-1. PLANNING COMMISSION REQUEST ITEMS – NONE**

**F-2. PLANNING COMMISSION COMMENTS**

Commissioner Shier-Burnett spoke about her recent visit to the Surf Museum in downtown Huntington Beach and noted what a great job the volunteers have done.

Commissioner Speaker – None

Vice Chairperson Livengood – None

Chairperson Scandura thanked the Planning Commission again for the great job done on First Christian Church.

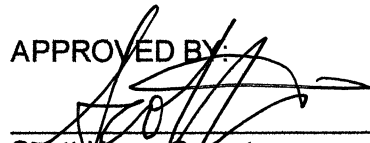
Commissioner Shaw - None

Commissioner Dwyer would like the Planning Commission to adjourn the meeting in memory of his uncle, Ralph Rios.

Commissioner Farley - None

**ADJOURNMENT:** Adjourned at 7:35 PM to the next regularly scheduled meeting of October 9, 2007.

APPROVED BY:

  
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Scott Hess, Secretary

  
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John Scandura, Chair